



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

August 23, 2012

**STAFF REVIEW  
OF "MICHIGAN ALLIANCE FOR PROSPERITY"  
PETITION**

**SPONSOR:** Michigan Alliance for Prosperity, 222 W. Genesee, Lansing, MI 48933.

**DATE OF FILING:** July 9, 2012, 3:08 p.m.

**NUMBER OF VALID SIGNATURES REQUIRED:** 322,609 signatures.

**TOTAL FILING:** At the time of filing, the sponsor estimated that it filed 83,795 sheets containing an estimated 613,379 signatures. According to the staff review, the actual filing consisted of 85,853 sheets containing 629,860 signatures.

**SIGNATURE SAMPLE**

**NOT INCLUDED IN SAMPLE:** 1,759 sheets containing 10,444 signatures. Petition sheets discounted for defective circulator certificates; defective petition headings; torn, mutilated, or incomplete petition sheets; and blank petition sheets.

**INCLUDED IN SAMPLE:** 84,094 sheets containing 629,416 signatures.

**NUMBER OF SAMPLED SIGNATURES:** 532 signatures.

**SAMPLE RESULT:** 441 valid signatures; 91 invalid signatures.

**Valid signatures**

Registered signers; signatures verified:	441
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**Invalid signatures**

Facially defective signatures:	28
Signatures determined invalid due to signer's registration status:	63

<b>Total</b>	<b>532</b>
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## **SIGNATURE CHALLENGE: Defend Michigan Democracy**

Defend Michigan Democracy (DMD) submitted a signature challenge as well as a challenge to the form of the petition (described below). DMD Challenge, Exhibit 9. With respect to DMD's signature challenge, the staff notes the following:

- DMD asserts that many of the petition circulators are not listed in the Qualified Voter File, but MCL 168.544c provides that the circulator of an initiative petition such as this one, “need only be *qualified to be a registered elector* of this state at the time of circulation and at the time of executing the certificate of circulator.” MCL 168.544c(3) (emphasis added). DMD does not offer any evidence tending to establish that these petition circulators were not qualified to register to vote.
- DMD argues that many of the signatures included in the sample are invalid because the signer failed to check the “city” or “township” box in the column where signers indicate the city or township in which they are registered to vote. However, under MCL 168.552a(1), “a signature is not invalid solely because the designation of city or township has not been made on the petition form if a city and an adjoining township have the same name.” Based on this statute, if the signer is not required to check the box to differentiate jurisdictions having the same name (i.e., Howell Township and City of Howell), then the signer's failure to check the box in a jurisdiction that does not share the same name with another city or township (i.e., Detroit) cannot invalidate the signature.

Further, MCL 168.552(8)<sup>1</sup> and (13)<sup>2</sup> authorize the use of the Qualified Voter File to verify the registration status of signers and the genuineness of their signatures. Signers must always write the name of the city or township in which they are registered to vote.<sup>3</sup> Using the voter's name and the name of the jurisdiction, the staff is able to ascertain the signer's registration status – despite a failure to check the “city” or “township” box – by referring to the signer's record in the Qualified Voter File. If the staff determines that the

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<sup>1</sup> Under MCL 168.552(8),

If the board of state canvassers receives a sworn complaint, in writing, questioning the registration of or the genuineness of the signature of the circulator or of a person signing a nominating petition filed with the secretary of state, the board of state canvassers shall commence an investigation. Subject to subsection (13), the board of state canvassers shall verify the registration or the genuineness of a signature as required by subsection (13).

<sup>2</sup> Under MCL 168.552(13),

The qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid.

<sup>3</sup> A signature is invalid if the signer fails to indicate the name of the jurisdiction in which he or she is registered to vote.

signer is registered to vote in the city or township identified on the petition, then the signature is valid.

- DMD alleges that 112 petition signers are not listed in the Qualified Voter File, but the staff review had previously determined that 52 of these challenged signatures were invalid. Thus, even assuming that DMD's challenge to the remaining 60 signatures was successful,<sup>4</sup> DMD does not challenge a sufficient number of signatures to place the petition in jeopardy of non-qualification (due to signatures).

### **RESULT OF SIGNATURE CHALLENGE**

**ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION:**  
521,752 signatures.

**STAFF FINDING:** The petition contains a sufficient number of valid signatures.

### **FORM CHALLENGE #1: Defend Michigan Democracy**

In addition to the signature challenge described above, DMD argues that the form of the petition is defective due to the sponsor's omission of constitutional provisions "altered or abrogated" by the proposal if adopted. Under Const Art XII, §2 and MCL 168.482(3), the proponent of a petition is required to indicate on the petition form every constitutional provision that the proposal "would add to, delete from, or change the existing wording of the provision, or would render it wholly inoperative." *Ferency v Secretary of State*, 409 Mich 569, 597 (1980). According to DMD, the omitted provisions that are altered or abrogated by this proposal include: Art IX, §26 (limiting the total amount of taxes which may be imposed by the Legislature); Art IX, §3 (requiring a <sup>3</sup>/<sub>4</sub> vote of the Legislature to increase the maximum amount of property taxes that may be levied for schools); Art IX, §6 (requiring voter approval of an increase in general ad valorem taxes); and Art IX, §§1-2 (authorizing the Legislature to exercise the power to tax). DMD Challenge, pp. 12-16.

This petition was approved as to form by the Board at its April 26, 2012 meeting.

### **FORM CHALLENGE #2: Taxpayers United Michigan Foundation**

A challenge was timely filed by Taxpayers United Michigan Foundation (TUMF) on August 22, 2012. TUMF challenges the sufficiency of the form of the petition on the following grounds:

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<sup>4</sup> If the staff confirmed that all 60 of the remaining challenged signatures were invalid due to the signer's registration status, the petition would still have 381 valid signatures out of 532 sampled. This result yields an estimated 450,765 valid signatures, well above the minimum number required (322,609). The signature challenge does not alter the staff's finding that the petition sponsor has submitted a sufficient number of valid signatures.

- (1) “The existing provision of the constitution (simple majority vote) that the proposal would alter or abrogate was not stated on the petition” in violation of MCL 168.482(3). TUMF Challenge, pp. 1-2.
- (2) According to Taxpayers, the petition is defective in that, “[t]he Michigan Legislature only has the power to pass bills. This initiative petition enumerates a new power to ‘impose’ taxes without being approved by the Governor ...” TUMF Challenge, p. 2.
- (3) The petition forms circulated by Michigan Alliance for Prosperity “were actually printed in less than 8 point digital type.” TUMF Challenge, p. 5.
- (4) TUMF asserts that the last sentence of the proposal is, “intentionally deceptive and misleading and does not insert the provisions to be altered or abrogated preceded by the words: ‘Provisions of existing constitution altered or abrogated by the proposal if adopted.’” TUMF Challenge, p. 5.
- (5) “The [proposed constitutional amendment] attempts to insert §26a in the middle of the Headlee Amendment which would gut the existing Headlee Amendment requirement of no new taxes without grassroots taxpayers’ voted approval.” TUMF Challenge, p. 5.

**STAFF FINDING:** The staff expresses no opinion regarding the merits of either challenge to the form of the petition.